

DEC - 5 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

Law Office of G. Anthony Long
P. O. Box 504970
Second Floor Lim's Bldg.
San Jose, Saipan, MP 96950
Telephone No. (670) 235-4802
Facsimile No. (670) 235-4801

Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE
THE NORTHERN MARIANA ISLANDS**

AUTO MARINE, INC., ROLANDO) CIVIL ACTION No. 05-
SENORAN, BENJAMIN T. SANTOS)
AUGSTO SANTOS and NORMANDY)
SANTOS)

Plaintiffs)

v.)

COMPLAINT

ANTONIO SABLAN, personally)
and in his official capacity, and)
RICHARD T. LIZAMA, personally)
and in his official capacity)

Defendants.)

1. The court has jurisdiction over this matter pursuant to 28 U.S.C. §
1331 and 1343.

2. Plaintiff Auto Marine, Inc., ("Auto Marine") is a corporation formed

1 under laws of the Commonwealth of the Northern Mariana Islands
2 (“Commonwealth”).

3 3. Plaintiffs Rolando Senoran (“Senoran”), Benjamin T.
4 Santos (“Benjamin”), and Augusto Santos (“Augusto”) and Normandy
5 Santos (“Normandy”) are each citizens of the Philippines.
6

7 4. Defendant Antonio Sablan (“Sablan”) is a CNMI citizen and resident.

8 5. Defendant Richard T. Lizama (“Lizama”) is a CNMI citizen and
9 resident.
10

11 6. The Commonwealth (“CNMI”) is the governmental entity established
12 pursuant to the Covenant to Establish a Commonwealth of the
13 Northern Mariana Islands In Political Union With The United States
14 of America (“Covenant”).
15

16 7. Pursuant to the Covenant, the United States immigration laws do not
17 apply except for a few provisions relating to citizenship by birth and
18 citizenship arising from the implementation of the Covenant.
19

20 8. As a result of the Covenant provision relating to immigration, the
21 Commonwealth possesses its own control over the immigration of
22 aliens.
23

24 9. This local control over the immigration of aliens has resulted in the
25
26

1 Commonwealth establishing a system which allows employers to hire
2 aliens to work within the Commonwealth.

3 10. The Division of Immigration Services ("DIS") is an agency or
4 instrumentality of the Commonwealth government.

5
6 11. DIS is responsible for the supervision, administration and
7 enforcement of the Commonwealth's immigration laws.

8
9 12. Sablan, at all times relevant herein was and is the Acting Director of
10 DIS.

11 13. Sablan, as Acting Director of DIS, possesses the responsibility of
12 supervising, administering and enforcing the Commonwealth's
13 immigration laws.

14
15 14. Lizama is employed with DIS as an Immigration Investigator.

16
17 15. Lizama, assists Sablan in the enforcement of the Commonwealth's
18 immigration laws.

19
20 16. Sablan, as Acting Director of DIS, possesses the authority and
21 responsibility of supervising Lizama actions regarding immigration
22 matters.

23
24 17. Sablan, as Acting Director of DIS, possesses the authority and
25 responsibility of training Lizama in connection with Lizama's
26

performance of his duties.

18. Auto Marine operates a business which engages in water sport activities which include but are not limited to parasailing, banana boat rides, scuba diving, and transporting passengers.

19. Senoran is currently employed by Auto Marine and has been employed with Auto Marine since 2002.

20. Senoran has been employed by Auto Marine as a Diving Manager since 2003.

21. In July, 2002 Senoran was licensed by the United States Coast Guard ("USCG") as a U.S. Merchant Marine Officer.

22. The expiration of Senoran's USCG license is July 17, 2007.

23. Senoran's USCG license, at all times relevant herein, was and is valid

24. Senoran's license from the USCG allowed him to operate uninspected undocumented passenger vessels as defined in 46 U.S.C. § 2101(42) upon coastal waters.

25. A copy of Senoran's USCG license is attached hereto as Exhibit 1.

26. Benjamin is currently employed by Auto Marine and has been employed by Auto Marine since 1999.

27. Each employment contract between Benjamin and Auto Marine was

1 approved by the Commonwealth Director of Labor as required by
2 Commonwealth law.

3 28. At all times relevant herein, the employment contract between
4 Benjamin and Auto Marine expressly allowed Benjamin Santos to
5 operate or drive a boat or boats and vehicles as necessary.
6

7 29. Augusto is currently employed by Auto Marine and has been
8 employed by Auto Marine since 2004.
9

10 30. Each employment contract between Augusto Santos and Auto Marine
11 was approved by the Commonwealth Director of Labor as required by
12 Commonwealth law.
13

14 31. At all times relevant herein, the employment contract between
15 Augusto Santos and Auto Marine expressly allowed Augusto Santos
16 to operate or drive a boat or boats as necessary.
17

18 32. Normandy Santos is currently employed by Auto Marine and has
19 been employed by Auto Marine since 2001.
20

21 33. Each employment contract between Benjamin Santos and Auto
22 Marine was approved by the Commonwealth Director of Labor as
23 required by Commonwealth law.
24

25 34. On or about February 14, 2005, Senoran, Benjamn, Augusto and
26
27
28

1 Normandy were arrested for allegedly violating Commonwealth law
2 by operating a boat owned by Auto Marine.

3 35. Senoran, Benjamin, Augusto and Normandy were arrested for
4 allegedly violating 3 CMC § 4434(e)(1) which provides that:

5
6 [t]he Director of Labor shall not approve nonresident
7 worker certificates for the following job classifications:
8 taxi cab driver, secretary, bookkeeper, accounting clerk,
9 messenger, receptionist, surface tour boat operator, bus
10 driver, including tour bus driver, and telephone
11 switchboard operator.

12 36. At the time of his arrest, Senoran was employed by Auto Marine as a
13 Diving Manager.

14 37. At the time of his arrest, Benjamin was employed by Auto Marine as
15 a Manager.

16 38. At the time of his arrest, Augusto was employed by Auto Marine as a
17 helper mechanic.

18
19 39. At the time of his arrest, Normandy was employed by Auto Marine as
20 a Water Transportation Engineer.

21
22 40. Deportation proceedings have been instituted against Senoran,
23 Benjamin, Augusto, and Normandy on the basis of the alleged
24 violation of 3 CMC § 4434(e)(1).
25
26

LAW OFFICE OF G. ANTHONY LONG
P.O. Box 504970, 2nd Floor Lim's Building

San Jose, Saipan, MP 96950

Tel. No: (670) 235-4802 Fax No: (670) 235-4801

1 41. Additionally, on September 6, 2005 criminal charges were instituted
2 against Auto Marine's president, Adonis Santos, for employing
3 aliens, i.e., Senoran, Benjamin, Augusto, and Normandy, that between
4 on or about January 3, 2005 to February 14, 2005 when they did not
5 have "lawful documentation and authority to be so employed."

7 42. A copy of the criminal information is attached hereto as Exhibit 2.

8 43. At all times between January 3, 2005 and February 14, 2005,
9
10 Senoran, Benjamin, Augusto, and Normandy possessed valid
11 employment contracts with Auto Marine approved by the
12 Commonwealth Director of Labor.

13 44. At all times between January 3, 2005 and February 14, 2005, the job
14
15 classifications held by Senoran, Benjamin, Augusto, and Normandy
16 in the employment contracts approved by the Director of Labor were
17 not prohibited job classifications under 3 CMC § 4434(e)(1).
18

19 45. Although criminal charges were brought against Adonis, he was not
20 arrested.
21

22 46. The Commonwealth obtained a penal summons instead of an arrest
23 warrant for his appearance.
24

25 47. At all times relevant herein, Senoran, Benjamin, Augusto and
26

Normady were lawfully in the Commonwealth

FIRST CLAIM FOR RELIEF

48. Auto Marine realleges and incorporates ¶¶ 1 - 47 of this complaint.

49. The arrests of Senoran, Benjamin, Augusto and Normady and the criminal charges brought against Adonis has disrupted Auto Marine's business and has caused it to suffer harm and injury.

50. 3 CMC § 4434(e)(1) purportedly prohibits Senoran, Benjamin, Augusto and Normady from being employed in certain job classifications simply because they are aliens.

51. 3 CMC § 4434(e)(1) deprives Auto Marine and its employees, Senoran, Benjamin, Augusto and Normady, of equal protection of the law in that it restricts employment of persons solely on the basis of alienage.

52. There is not any compelling reason or compelling justification for precluding aliens from being employed in any of the job classifications identified in 3 CMC § 4434(e)(1).

53. 3 CMC § 4434(e)(1) is unenforceable on its face as it violates the equal protection clause of the 14th Amendment of the United States

Constitution.

54. 3 CMC § 4434(e)(1) is unenforceable as it violates the equal protection clause of the 14th Amendment of the United States Constitution as interpreted and applied against Auto Marine employees.

SECOND CLAIM FOR RELIEF

55. Auto Marine, Senoran, Benjamin, Augusto, and Normandy each realleges and incorporates ¶¶ 1 - 53 of this complaint.

56. At all times relevant herein Sablan was acting under color of Commonwealth law.

57. At all times relevant herein, DIS had a policy, custom, pattern and practice of arresting and seeking deportation of aliens who were lawfully in the Commonwealth and lawfully employed in the Commonwealth but who allegedly were (1) operating a boat as part of their employment or (2) operating a motor vehicle as part of their employment ("DIS Policy").

58. Sablan authorized, condoned, and acquiesced in this DIS policy.

59. The DIS policy authorized, condoned, and acquiesced in by Sablan

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1 ignores, disregards or otherwise tramples upon the equal protection
2 rights and liberty interests of Auto Marine, Senoran, Benjamin,
3 Augusto, and Normandy.
4

5 60. Auto Marine, Senoran, Benjamin, Augusto, and Normandy each
6 possessed a right to be free from discrimination in employment based
7 solely on alienage in absence of a compelling state interest.
8

9 61. Sablan knew or should have known that the DIS policy was
10 discriminatory and in violation of the equal protection clause of the
11 14th Amendment.
12

13 62. Sablan knew or should have known that enforcing the DIS Policy
14 would cause harm and injury to alien employees lawfully with in the
15 Commonwealth as well as the employers of aliens lawfully allowed to
16 work in the Commonwealth.
17

18 63. Enforcement of the DIS Policy against Auto Marine and its alien
19 employees has caused and continues to cause Auto Marine to suffer
20 injury and damage.
21

22 64. Enforcement of the DIS Policy against Senoran has caused and
23 continues to cause Senoran to suffer injury and damage.
24

25 65. Enforcement of the DIS Policy against Benjamin has caused and
26

continues to cause Benjamin to suffer injury and damage.

66. Enforcement of the DIS Policy against Augusto has caused and continues to cause Augusto to suffer injury and damage.

67. Enforcement of the DIS Policy against Normandy has caused and continues to cause Normandy to suffer injury and damage.

68. The damages and injuries suffered by Auto Marine, Senoran, Benjamin, Augusto, and Normandy, individually, as a direct and proximate result of Sablan's acts, actions and omission in connection with the DIS Policy are recoverable pursuant to 42 U.S.C. § 1983.

69. Sablan's acts, actions, and omissions in connection with the DIS Policy were willful, intentional, or in reckless disregard for the equal protection rights of Auto Marine, Senoran, Benjamin, Augusto, and Normandy thereby entitling each plaintiff to punitive damages.

THIRD CLAIM FOR RELIEF

70. Auto Marine, Senoran, Benjamin, Augusto, and Normandy each hereby alleges and incorporates ¶¶ 1- 69.

71. At all times relevant herein, Lizama was acting under color of

Commonwealth law.

72. Lizama authorized, condoned, and acquiesced in this DIS policy.

73. The DIS policy authorized, condoned, and acquiesced in by Lizama ignores, disregards or otherwise tramples upon the equal protection rights and liberty interests of Auto Marine, Senoran, Benjamin, Augusto, and Normandy.

74. Auto Marine, Senoran, Benjamin, Augusto, and Normandy each possessed a right to be free from discrimination in employment based solely on alienage in absence of a compelling state interest.

75. Lizama knew or should have known that the DIS policy was discriminatory and in violation of the equal protection clause of the 14th Amendment.

76. Lizama knew or should have known that enforcing the DIS Policy would cause harm and injury to alien employees lawfully with in the Commonwealth as well as the employers of aliens lawfully allowed to work in the Commonwealth.

77. Lizama's conduct of enforcing the DIS Policy against Auto Marine and its alien employees has caused and continues to cause Auto Marine to suffer injury and damage.

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1 78. Lizama's enforcement of the DIS Policy against Senoran has caused
2 and continues to cause Senoran to suffer injury and damage.

3 79. Lizama's enforcement of the DIS Policy against Benjamin has
4 caused and continues to cause Benjamin to suffer injury and damage
5

6 80. Lizama's enforcement of the DIS Policy against Augusto has caused
7 and continues to cause Augusto to suffer injury and damage
8

9 81. Lizama's enforcement of the DIS Policy against Normandy has
10 caused and continues to cause Normandy to suffer injury and damage
11

12 82. The damages and injuries suffered by Auto Marine, Senoran,
13 Benjamin, Augusto, and Normandy, individually, as a direct and
14 proximate result of Lizama's enforcement of the DIS Policy are
15 recoverable pursuant to 42 U.S.C. § 1983.
16

17 83. Lizama's acts, actions, and omissions in connection with the DIS
18 Policy were willful, intentional, or in reckless disregard for the 14th
19 Amendment equal protection rights of Auto Marine, Senoran,
20 Benjamin, Augusto, and Normandy thereby entitling each plaintiff to
21 punitive damages.
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FOURTH CLAIM FOR RELIEF

84. Auto Marine hereby alleges and incorporates paragraphs 1- 83 of this complaint.

85. Lizama, at all times relevant herein, was acting under color of Commonwealth law.

86. Lizama, together with others unknown, conspired between and among themselves to directly or indirectly use Lizama's position with DIS to disrupt Auto Marine's business.

87. As part of this conspiracy, Lizama would target Auto Marine's alien employees and bring or cause deportation and/or criminal proceedings being brought against Auto Marine's president as well as its alien employees.

88. In furtherance of this conspiracy, Lizama committed overt acts which include but are not limited to:

- A. Arresting Senoran
- B. Arresting Benjamin
- C. Arresting Augusto
- D. Arresting Normandy,
- E. Causing the institution of deportation

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proceedings against Senoran;

F. Causing the institution of deportation

proceedings against Benjamin;

G. Causing the institution of deportation proceeding
against Augusto;

H. Causing the institution of deportation
proceedings against Normandy; and

I. Causing the institution of criminal prosecution
against Adonis.

88. The above acts resulted in Auto Marine, Senoran, Benjamin, Augusto, and Normandy being deprived of equal protection of the law in violation of the 14th Amendment and the denial of equal privileges and immunities.

89. Auto Marine, Senoran, Benjamin, Augusto, and Normandy would not have been subject to such deprivation of equal protection, equal privileges and immunities, unreasonable seizure and deprivation of property interests except for the fact that Adonis, Senoran, Benjamin, Augusto, and Normandy were each aliens within the Commonwealth employed by Auto Marine.

1 90. The conspiracy between Lizama and others unknown violated's Auto
2 Marine's, Senoran's, Benjamin's, Augusto's, and Normandy's rights
3 secured by 42 U.S.C. § 1985(3).
4

5 91. The conspiracy has caused and continues to cause Auto Marine,
6 Senoran, Benjamin, Augusto, and Normandy to suffer injury and
7 damage.
8

9 92. Lizama's acts and conduct in connection with the conspiracy and the
10 violation of plaintiffs right to equal protection, and right to equal
11 privileges and immunities were willful, deliberate, and intentional
12 thereby entitling Auto Marine, Senoran, Benjamin, Augusto, and
13 Normandy, severally, to punitive damages.
14
15

16 17 **FIFTH CLAIM FOR RELIEF** 18

19 93. At all times relevant herein, Lizama acted under color of
20 Commonwealth law.
21

22 94. The forth amendment to the United States Constitution prohibits
23 unreasonable seizure of a person.
24

25 95. Lizama omitted material information in submitting his declaration of
26 the arrest warrants for Senoran, Benjamin, Augusto and Normandy.
27
28

1 96. If Lizama had included the material information he omitted, his
2 declaration would not have established probable cause for issuance of
3 a warrant for the arrest of Senoran, Benjamin, and Augusto.

4 97. The omitted information includes but is not limited to the following:
5

6 A. Advising that Senoran possessed a USCG license
7 which allowed him to operate boats owed by
8 Auto Marine;
9

10 B. Benjamin's employment contract as approved by
11 the Director of Labor allowed him to operate or
12 drive a boat;
13

14 C. Augusto's employment contract as approved by
15 the Director of Labor allowed him to operate or
16 drive a boat and vehicles as necessary;
17

18 D. Respondent did not make any effort to ascertain
19 or determine the identity of any person who
20 allegedly was a passenger on any boat claimed to
21 have been driven or operated by Senoran,
22 Benjamin, Augusto, or Normandy.
23

24 E. In not ascertaining the identity of any alleged
25
26
27
28

passenger, Lizama did not know and had no way
of knowing whether such person was, in fact, a
tourist.

F. Upon information and belief, he had ulterior
motives in seeking the arrest warrants for
Senoran, Benjamin, Augusto and Normandy.

98. Omitting material information from each arrest warrant render the
seizure of Senoran, Benjamin, Augusto and Normandy unreasonable
and a violation of the Fourth Amendment.

99. The unreasonable seizure of has caused and continues to cause Auto
Marine, Senoran, Benjamin, Augusto and Normandy to suffer injury
and damage

100. The damages and injuries suffered by Auto Marine, Senoran,
Benjamin, Augusto, and Normandy, individually, as a direct and
proximate result of the unreasonable seizures resulting
from Lizama omitting material information are recoverable pursuant
to 42 U.S.C. § 1983.

101. Lizama's acts, actions, and omissions in connection with the issuance
of the arrest warrants were willful, intentional, or in reckless

1 disregard for the 4th Amendment rights of Auto Marine, Senoran,
2 Benjamin, Augusto, and Normandy thereby entitling each plaintiff to
3 punitive damages.
4

5
6 **PRAYER OF RELIEF**

7 Wherefore, plaintiffs pray for relief as follows:

8
9 **FIRST CLAIM FOR RELIEF**

- 10 1. Declaratory relief in favor of Auto Marine declaring 3 CMC §
11 4434(e)(1) unconstitutional and unenforceable.
12
13 2. Injunctive relief enjoining Sablan, in his official capacity, from
14 enforcing 3 CMC § 4434(e)(1)
15
16 3. Cost of suit including reasonable attorneys fees; and
17
18 4. Such other and further relief as the court deems just and proper.
19

20 **SECOND CLAIM FOR RELIEF**

- 21 1. Compensatory damages in an amount to be proved at trial against
22 Sablan, personally, in favor of Auto Marine, Senoran, Benjamin,
23 Augusto, and Normandy, severally;
24
25 2. Punitive Damages of at least \$50,000.00 each Auto Marine, Senoran,
26

- 1 Benjamin, Augusto, and Normandy against Sablan, personally;
- 2
- 3 3. Cost of suit including reasonable attorneys fees; and
- 4 4. Such other and further relief as the court deems just and proper.
- 5
- 6

7 **THIRD CLAIM FOR RELIEF**

- 8 1. Compensatory damages in an amount to be proved at trial against
- 9 Lizama, personally, in favor of Auto Marine, Senoran, Benjamin,
- 10 Augusto, and Normandy, severally;
- 11
- 12 2. Punitive Damages of at least \$50,000.00 each for Auto Marine,
- 13 Senoran, Benjamin, Augusto, and Normandy against Lizama,
- 14 personally;
- 15
- 16 3. Cost of suit including reasonable attorneys fees; and
- 17
- 18 4. Such other and further relief as the court deems just and proper.
- 19

20 **FOURTH CLAIM FOR RELIEF**

- 21
- 22 1. Compensatory damages in an amount to be proved at trial against
- 23 Sablan, personally, in favor of Auto Marine, Senoran, Benjamin,
- 24 Augusto, and Normandy, severally;
- 25
- 26 2. Punitive Damages of at least \$50,000.00 each for Auto Marine,
- 27
- 28

1 Senoran, Benjamin, Augusto, and Normandy against Sablan,
2 personally;

- 3 3. Cost of suit including reasonable attorneys fees; and
4
5 4. Such other and further relief as the court deems just and proper.
6

7 FIFTH CLAIM FOR RELIEF

- 8
9 1. Compensatory damages in an amount to be proved at trial against
10 Lizama, personally, in favor of Auto Marine, Senoran, Benjamin,
11 Augusto, and Normandy, severally;
12
13 2. Punitive Damages of at least \$50,000.00 each for Auto Marine,
14 Senoran, Benjamin, Augusto, and Normandy against Lizama,
15 personally;
16
17 3. Cost of suit including reasonable attorneys fees; and
18
19 4. Such other and further relief as the court deems just and proper.
20

21 Law Office of G. Anthony Long
22

23
24 By: 

25 G. Anthony Long
26
27
28

EXHIBIT 1

SERIAL NUMBER

1 001 826

ISSUE NUMBER 3

UNINSPECTED SWAYNES COAST GUARD



U.S. MERCHANT MARINE OFFICER

This is to certify that

*** ROLAND ELVIS ALVARAN SENORAN ***

*having been duly examined and found competent by the undersigned is licensed to serve
for the term of five years from the below issue date as:*

OPERATOR OF UNINSPECTED UNDOCUMENTED PASSENGER VESSELS AS DEFINED IN 46 U.S.C.
2101 (42) UPON NEAR COASTAL WATERS. (SEE REVERSE)

Given under my hand this 17TH day of July 2002

L. E. Joy Jr.

G. E. JOY JR., ASIP, BY DIRECTION
OFFICER IN CHARGE, MARINE INSPECTION

ISSUE PORT: HONOLULU, HI
EXPIRATION DATE: JULY 17, 2007

EXHIBIT 2

IAN M. CATLETT, Assistant Attorney General
 OFFICE OF THE ATTORNEY GENERAL, Criminal Division
 Commonwealth Of The No. Mariana Islands
 Susupe, Saipan, MP 96950
 Telephone (670) 664-2367/2368/2365
 Fax (670) 234-7016
 Attorneys for the Plaintiff

IN THE SUPERIOR COURT
 FOR THE
 COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

COMMONWEALTH OF THE)	CRIMINAL CASE NO. 05- <u>0283E</u>
NORTHERN MARIANA ISLANDS,)	AGIU Case No. 05-0084
Plaintiff,)	
)	
vs.)	INFORMATION
)	
ADONIS SANTOS)	
D.O.B. 10/29/63)	
Defendant,)	

COUNT I: EMPLOYMENT OF ILLEGAL ALIENS

On or about January 3, 2005 to February 14, 2005, on Saipan, Commonwealth of the Northern Mariana Islands, the defendant, Adonis Santos, did knowingly employ an alien, Rolando Senoran, within the Commonwealth, while knowing that the alien does not have lawful documentation and authority to be so employed, in violation of 3 CMC § 4361 (e), and made punishable by 3 CMC § 4361.

COUNT II: EMPLOYMENT OF ILLEGAL ALIENS

On or about January 3, 2005 to February 14, 2005, on Saipan, Commonwealth of the Northern Mariana Islands, the defendant, Adonis Santos, did knowingly employ an alien, Augusto Santos, within the Commonwealth, while knowing that the alien does not have lawful documentation and authority to be so employed, in violation of 3 CMC § 4361 (e), and made punishable by 3 CMC § 4361.

1
2 **COUNT III: EMPLOYMENT OF ILLEGAL ALIENS**

3 On or about January 3, 2005, to February 14, 2005, on Saipan, Commonwealth of the
4 Northern Mariana Islands, the defendant, Adonis Santos, did knowingly employ an alien,
5 Normandy Santos, within the Commonwealth, while knowing that the alien does not have lawful
6 documentation and authority to be so employed, in violation of 3 CMC § 4361 (e), and made
7 punishable by 3 CMC § 4361.
8

9 **COUNT IV: EMPLOYMENT OF ILLEGAL ALIENS**

10 On or about January 3, 2005, to February 14, 2005, on Saipan, Commonwealth of the
11 Northern Mariana Islands, the defendant, Adonis Santos, did knowingly employ an alien,
12 Benjamin Santos, within the Commonwealth, while knowing that the alien does not have lawful
13 documentation and authority to be so employed, in violation of 3 CMC § 4361 (e), and made
14 punishable by 3 CMC § 4361.
15

16 Dated this 6th day of September, 2005.

17 RESPECTFULLY SUBMITTED,

18 OFFICE OF THE ATTORNEY GENERAL
19 PAMELA BROWN, ATTORNEY GENERAL
20

21
22 By: 

23 IAN M. CATLETT
24 Assistant Attorney General
25 Attorney for the Plaintiff
26
27